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EXAMINER				
BURCH, MELODY M				
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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/801,626
Filing Date: March 15, 2004
Appellant(s): NORMAN, RALPH S.

Thompson E. Fehr
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 4/8/08 appealing from the Office action mailed 3/3/06.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

No amendment after final has been filed.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

No evidence is relied upon by the examiner in the rejection of the claims under appeal.

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action: A person shall be entitled to a patent unless - (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 5 and 6 are rejected under 35 U.S.C. 102(b) as being anticipated by Morgan et al (U. S. Patent no 6,802,519). See figures housing 19, wiper 21, channel 39, first clamp left side of 17, second clamp right side of 17, triple clamp 13. Note: the double clamp 17 is mounted on both sides of the housing and can be interpreted as reading upon the claim language.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action: (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 7 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Morgan in view of Hopey (U. S. Patent no. 6,145,637). Morgan is relied upon as above. Morgan does not disclose the use of a clamp with a rotatably connection at one end. Hopey shows such a clamp (see figure 4). Such clamps are well known as an alternative designs. It would have been obvious to one of ordinary skill in the art at the time the invention was made to use clamps as shown by Hopey in the device of Morgan

as such is merely a design choice. It also reduces the number of parts by eliminating one fastener.

Claims 5-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gustafsson in view of Morgan et al.

Gustafsson discloses: See figures housing 6, wiper 23, channel 24, first clamp 2a, second clamp 2b, triple clamp 3. Gustafsson does not disclose mounting the clamps on top of the housing. Morgan teaches mounting the clamps on top of the housing. It would have been obvious to one of ordinary skill in the art at the time the invention was made to mount the clamps on top of the housing as taught by Morgan et al in the device of Gustafsson as such is merely a design choice. This arrangement allows for a horizontally short (and vertically longer) assembly which may be useful depending on the designed space in which the device is supposed to fit.

(10) Response to Argument

On pg. 11 of the brief Appellant makes arguments directed to the triple clamp limitation. Examiner notes, however, that the triple clamp does not appear in independent claim 5. Arguments regarding the triple clamp do not serve to refuse the rejection of claim 5. Despite the absence of arguments with respect to claim 5, Examiner reiterates that Morgan et al. show a fluidic dampening device comprising a housing 19, a first clamp shown to the left of the end of the lead line of 17 and a second clamp shown to the right of the end of the lead line of 17. The clamps are clearly shown as being arranged such that the uppermost portion of the housing 19 is lower than the lowermost portion of the apertures (through which element 15 extends) in the first and

second clamps. Accordingly, the Morgan et al. reference reads on claim 5. With respect to claim 6, Examiner maintains that the fluidic dampening device of Morgan et al. further comprises a triple clamp 13. Appellant argues that there was already a connection between the housing and the first clamp as well as the housing and the second clamp in claim 5. Examiner notes that the fact that the first and second clamps are recited as being attached to the housing does not preclude the recognition of element 13 as the triple clamp. The clamps are attached to the housing by way of the triple clamp. The broad recitations set forth in the claim permit indirect attachment of the components.

With regards to claim 7, Appellant argues that the clamps of Morgan et al. cannot be modified because Morgan et al. do not contain the requisite connection between the housing and the first and second clamps. Examiner reiterates that the claims simply require the first and second clamps to be attached to the housing on a respective side. Morgan et al. satisfy the attachment recitation since the clamps are attached to the housing via the triple clamp. Nothing in the claim language precludes the clamps from being attached to the housing indirectly by way of the triple clamp.

With regards to the rejections using Gustafsson in view of Morgan et al., Appellant argues that the combination does not read on the claim language since Morgan et al. "merely attached the clamps in the traditional fashion to the top of the triple clamp." See lines 1-2 from the bottom of pg. 14 of the brief. Examiner maintains that Morgan et al. attach the clamps such that the uppermost portion of the housing 19 is lower than the lowermost portion of the aperture in the clamps as claimed.

Gustafsson described the invention substantially, but lacked the arrangement of the clamps with respect to the housing such that the uppermost portion of the housing was lower than the lowermost portion of the aperture in the clamps. Morgan et al. was used solely for the teaching of the claimed clamp-housing arrangement to allow for a horizontally short (and vertically longer) assembly which may be useful depending on space requirements.

Accordingly, the rejections have been maintained.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Melody Burch

/mmb/

/Melody M. Burch/

Primary Examiner, Art Unit 3683

9/1/08

Conferees:

Robert Siconolfi /RS/

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